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In re Application of :
FILIPPINI, et al. :
U.S. Application No.: 10/555,477 :
PCT No.: PCT/US04/14336 : DECISION ON PETITION
Int. Filing Date: 07 May 2004 :
Priority Date: 07 May 2003 : UNDER 37 CFR 1.182
Attorney's Docket No.: 3239-01 :
For: EMULSIFIERS FOR MULTIPLE EMULSIONS :

This decision is in response to applicant's "Petition to Claim The Benefit of an Earlier Filing Date Under 37 C.F.R. §1.78(a)(3)" filed 27 March 2008 in the United States Patent and Trademark Office (USPTO). The petition is being treated under 37 CFR 1.182 to correct the error in the Transmittal Letter (Form PTO-1390) filed 03 November 2005. Applicant has provided a petition fee payment of the \$1410.00. The petition fee for a petition under 37 CFR 1.182 is \$400.00. Therefore, \$1010.00 will be refunded to deposit account 50-1501.

BACKGROUND

On 07 May 2004, applicant filed international application PCT/US04/14336 which claimed priority to an earlier application filed 07 May 2003. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States was set to expire at midnight on 07 November 2005.

On 03 November 2005, applicant filed a transmittal letter for entry into the national stage in the United States (Form PTO-1390) which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a First preliminary amendment and an Information Disclosure Statement. The transmittal letter did not identify an international application number. The papers were accompanied by a certification under 37 CFR 1.10 which identified the international application as "PCT/US2004/0100904."

On 11 August 2006, applicant faxed in an additional Form PTO-1390 which identified the international application as PCT/US04/14336.

On 16 August 2006, applicant was mailed a "Notification of Missing Requirements" (Form PCT/DO/EO/905) informing applicant that an executed oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required. Applicant was afforded two months to file the required response and advised that this period could be extended pursuant to

37 CFR 1.136(a). The paper identified the international application as PCT/US04/10904.

On 11 April 2007, applicant was mailed a "Notice of Acceptance" (Form PCT/DO/EO/903) according a date of 13 September 2006 under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4). The paper identified the international application as PCT/US04/10904.

On 31 January 2008, applicant filed a request for a corrected filing receipt seeking recognition of the subject application as the U.S. National stage entry of international application PCT/US04/14336.

On 27 March 2008, applicant filed the present petition under 37 CFR 1.78 which is being considered pursuant to 37 CFR 1.182.

DISCUSSION

The identifying information provided on the transmittal letter filed by applicant on 03 November 2005, i.e., the title, applicant-inventor information, priority date, and international filing date all correspond to that of PCT/US04/14336. For these reasons, as well as the explanation provided in the present petition, it has been concluded that the national stage papers filed 03 November 2005 sufficiently identified international application PCT/US04/14336. Pursuant to petitioner's request, the national stage papers assigned U.S. application number 10/555,477 will be treated as a U.S. national stage submission for PCT/US04/14336.

CONCLUSION

For the reasons above, applicant's "Petition Under 37 CFR 1.182" is **GRANTED**.

The Form PCT/DO/EO/903 mailed 11 April 2007 is hereby **VACATED**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for the processing of U.S. application number 10/555,477 as the U.S. national stage application of PCT/US04/14336; specifically, the preparation and mailing of a "Notification of Acceptance" (Form PCT/DO/EO/903) and corrected filing receipt indicating that the present application is the U.S. National stage entry for international application PCT/US04/14336 with a date of **13 September 2006** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).



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